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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,304	03/08/2005	Robert Stanley Morgans	05-192	9581

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BACHMAN & LAPOINTE, P.C.
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EXAMINER

PHAN, HAU VAN

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/527;304

Applicant(s)

MORGANS, ROBERT STANLEY

Examiner

Hau V. Phan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/8/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 3/8/2005 has been considered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 recites the limitation "a wheel" in line 7. There is insufficient antecedent basis for this limitation in the claim. It is unclear "a wheel" in line the same with "a wheel" in line 1.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dube (1,398,259).**

Dube in figures 5-7, discloses a cover for a wheel. The cover comprises a substantially cylindrical part, which is adapted to fit around a periphery of the wheel for which the cover is intended. Dube also discloses first side and second side (11) for covering the wheel. The substantially cylindrical part being joined to the first and second sides of the cover and a closable opening (20) being provided whereby, the wheel can be inserted into the cover through the closable opening and the closable opening then being closed by releasable fastening means, wherein the closable opening is provided in one of the sides of the cover, which side is intended in use to cover the side of a wheel from which an axle on which the wheel is mounted extends.

Regarding claim 12, Dube discloses the substantially cylindrical part that is formed integrally with the first and second sides of the cover.

Regarding claim 13, Dube discloses the opening that is closable by a flap, which extends over an arc of the side of the cover in which the opening is provided and which is releasably fastened to at least one of the side in which the opening is provided and substantially cylindrical part of the cover to close the opening.

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Regarding claim 14, Dube discloses the arc, which is approximately 45 degree.

Regarding claim 15, Dube discloses the arc, which is approximately 90 degree.

Regarding claim 16, Dube discloses a second flap, which is provided, each the flap extending over approximately one half of the arc of the opening and the flaps being provided with releasable fastening means, whereby the flaps can be releasably secured together to close the opening.

Regarding claim 17, Dube discloses a small part of the opening in a central region of the side of the cover is arranged to remain open in the closed position of the cover to accommodate the axle on which the wheel is mounted when the wheel cover is in use.

Regarding claim 18, Dube discloses the at least one of advertising and promotional material is applied to the other side of the cover.

Regarding claim 19, Dube discloses the releasable fastening means comprising at least one of press studs, at least one sliding clasp fastener, and at least one pair of co-operating engageable strips.

Regarding claim 20, Dube discloses the cover that is made of at least one of a flexible and waterproof material and a synthetic plastics material.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brosman discloses a tire carrier, Mcleod et al. discloses a composite spare wheel well, Obriot discloses a vehicle spare tire container.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
Primary Examiner
Art Unit 3618

Hau V Phan
10/18/05